IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 8596 OF 1989

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

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CHIMANLAL JETHALAL BHATT - Petitioner(s)
Versus
VRUJLAL TRIBHOVANDAS THAKKAR & ORS. - Respondent(s)

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Appearance :
(MR SD PATEL) for Petitioner(s).
MR. N.C. THAKKAR for Respondent(s) : 1.
None for Respondent(s) : 2.
NOTICE SERVED for Respondent(s) : 3.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 17/06/2006

ORAL JUDGMENT

1. By way of this petition under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the legality and validity of the order passed by the learned District Registrar, Cooperative Societies

(City Division), Ahmedabad, dated 26th May, 1982, order passed by the Additional Registrar, Cooperative Societies (Appeals), State of Gujarat, Gandhinagar dated 25th April, 1984, as well as the judgement and order passed by the Deputy Secretary (Appeals), Cooperation Department, by which the Deputy Secretary (Appeals), while dismissing the Revision Application, has confirmed the orders passed by the Additional Registrar as well as the District Registrar.

2. It appears from the record that the petitioner herein sold some portion of land in favour of respondent No.1 herein, Vrajlal Tribhovandas Thakker. However, there was some dispute with regard to enrolling him as a Member of the Society and, therefore, respondent No.1 herein approached the District Registrar, Cooperative Societies (City Division), Ahmedabad and the District Registrar passed an order directing to enroll respondent No.1 as a Member of Vrundavan Cooperative Housing Society Limited, i.e. respondent No.2 herein. Being aggrieved by and dissatisfied with the order passed by the District Registrar, Cooperative Societies, dated 26th May, 1982, the respondent No.2 - Society preferred an appeal before the Additional Registrar, Cooperative Societies

(Appeals), State of Gujarat, Gandhinagar, being Revision Application No.292 of 1982 and the Additional Registrar, by his Order dated 25th May, 1984, dismissed the said Revision Application and confirmed the order passed by the District Registrar, Cooperative Societies (City Division), Ahmedabad. Being aggrieved by and dissatisfied with the said order passed by the Additional Registrar (Appeals) dated 25th April, 1984, respondent No.2 preferred further revision before the State Government and the Deputy Secretary (Appeals), Cooperation Department, by its judgement and order dated 22nd July, 1988, dismissed the said Revision Application and confirmed the order passed by both the authorities below. Being aggrieved by and dissatisfied with the same, the petitioner has preferred the present Special Civil Application under Articles 226 and 227 of the Constitution of India.

3. It is required to be noted that against the order passed by the District Registrar, the petitioner had not challenged the same before the higher forum, i.e. either before the Additional Registrar (Appeals) or before the State Government, and respondent No.2-Cooperative Society, which preferred Revision Application

before the Additional Registrar as well as the Deputy Secretary (Appeals), therefore, it is not open for the petitioners to challenge the orders passed by the Additional Registrar (Appeals) as well as the Deputy Secretary. Even otherwise, it is required to be noted that it is the petitioner, who sold some portion of land to respondent No.1, and, therefore, it is not open for the petitioner to challenge the orders passed by all the authorities below by which respondent No.1 was directed to be enrolled as a Member of the Society.

4. Under the circumstances, there is no substance in the present Special Civil Application and the same is required to be dismissed. It is, accordingly, dismissed. Rule is discharged. Interim relief, if any, granted earlier shall stand vacated. No costs.

[M. R. Shah, J.]

*kamlesh**